

12
DATE 9.12.07

APPLICATION NUMBER 10/510,992

DOC CODE Perdec.

DOC DATE 9-12-07

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC
SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE
INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS;
UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO
LATER THAN 16 WORK HOURS
FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN
ACCORDANCE WITH INSTRUCTIONS



12 SEP 2007

Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

In re Application of :
ANDREEV et al. :
Application No.: 10/510,992 :
PCT No.: PCT/US03/11193 :
Int. Filing Date: 11 April 2003 :
Priority Date: 12 April 2002 :
Attorney Docket No.: NU-597XX :
For: MATCHED FILTRATION WITH :
EXPERIMENTAL NOISE :
DETERMINATION FOR DENOISING, :
PEAK PICKING AND QUANTITATION :
IN LC-MS :

DECISION ON PETITION
UNDER
37 CFR 1.137(B)

This decision is issued in response to applicants' "Petition to Revive Unintentionally Abandoned Application under 37 CFR 1.137(b)" filed 10 August 2007.

The procedural background for this application was set forth in detail in the decision mailed by this Office on 12 July 2007.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). Applicants have satisfied Items (2)-(4).

With regard to Item (1), the proper response is the submission of the declaration of the inventors which complies with 37 CFR 1.497(a) and (b). A review of the declaration filed on 10 August 2007 reveals that the declaration is not in an acceptable form. Applicants have provided a defective executed composite declaration. Section 201.03(II)(B) of the Manual of Patent Examining Procedure states, in part,

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declaration rather than combined into one declaration.

A composite declaration under 37 CFR 1.497(a)-(b) requires that the declaration must be complete and identify each inventor in each set of declarations provided. The composite declaration is defective because it contains duplicate sheets (see sheet no. 8 as listed on the Declaration: Inventorship (only for the purpose of the designation of the United States of America)). This suggests that the enclosed declaration was constructed from numerous complete declarations or that the inventors forwarded to counsel only the signature pages of the declaration. Either alternative renders the submitted declaration defective under 37 CFR 1.497. While each inventor need not execute the same oath or declaration, where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. (See MPEP 201.03 B. Oath or Declaration.)

Further, the declaration is defective and is insufficient to satisfy the oath or declarations requirement of 35 CFR 371(c)(4) for entry into the national stage in the United States of America. Specifically, the declaration executed by Victor P. Andreev includes alterations that have not been initialed and dated by the inventor.

37 CFR 1.52(c) states:

(c) Any interlineation, erasure, cancellation or other alteration of the application papers filed should be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper . . .

Therefore, the declaration executed by Victor P. Andreev cannot be accepted at this time.

Since applicants have not met the requirements for revival of an application under 37 CFR 1.137(b), revival at this time would not be proper.

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time may be obtained under 37 CFR 1.136(a).

Application No.: 10/510,992

3

Any further correspondence with respect to this matter should be addressed to:
Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box
1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the
attention of the Office of PCT Legal Administration.



Anthony Smith

Attorney-Advisor

Office of PCT Legal Administration

Tel: (571) 272-3298

Fax: (571) 273-0459